



UST and SAF Bulletin

Arizona Department of Environmental Quality

Subject: A.R.S. § 49-1005(D)(3)

Effective: 03/27/02

Supersedes:

Item: 04-04

TYPE

Letter of agreement on interpretation of A.R.S. § 49-1005(D)(3)

BACKGROUND

UST Program - **A.R.S. § 49-1005(D)(3)** Based Denials - Re-submission of Information -
Definition of Work Objectives

CONTENT

Letter dated March 27, 2002 (located on page 2 on this Bulletin)

CONTACT:

Judy Navarrete, navarrete.judy@adeq.state.az.us
602-771-4815



Jane Dee Hull
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

3033 North Central Avenue • Phoenix, Arizona 85012-2809
(602) 207-2300 • www.adeq.state.az.us



Jacqueline E. Schafer
Director

March 27, 2002

John M. Pearce, Chairman
Arizona Chamber of Commerce
UST Subcommittee
c/o Fennemore Craig
3003 N. Central Ave., Suite 2600
Phoenix, AZ 85012

Re: UST Program - A.R.S. § 49-1005(D)(3) Based Denials - Resubmission of Information
- Definition of Work Objectives

Dear John:

This letter first confirms the agreement of the Arizona Department of Environmental Quality (ADEQ) not to apply A.R.S. § 49-1005(D)(3) as a denial code to reject workplans, direct payment request, and SAF applications (collectively "Claims") submitted under the UST Program. From this time forward, ADEQ agrees that it will not interpret A.R.S. § 49-1005(D)(3) to require:

1. The submission of bids for corrective action work prior to the time the corrective action technology is approved by ADEQ (bids for the selected technology are still necessary);
2. Anything more than professional estimates for costs of corrective action alternatives when a technology alternative is submitted for approval by ADEQ;
3. Detailed time and material "backup" in connection with the submission of corrective action alternatives;

As a second point, this letter confirms ADEQ's agreement not to enforce the requirement that workplans submitted for preapproval include information previously submitted to ADEQ in a document by an owner or operator, or a volunteer, if the source of the information previously submitted is referenced in the workplan by indicating the date, title and section of the document containing the information and the location of the information within the document. This agreement of ADEQ shall continue in effect until new SAF Rules are in effect which adequately address this issue to the reasonable satisfaction of the UST stakeholders.

Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004
(520) 779-0313

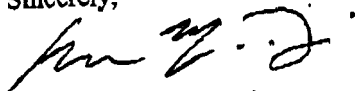
Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

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Third, this letter confirms ADEQ's agreement of how it shall apply the concept of "work objectives" in connection with the evaluation of costs submitted under a preapproval. Specifically, ADEQ shall apply work objectives to mean all items that are necessary to accomplish the stated objective or objectives in a workplan. For example, if a work objective is site characterization, the work objective includes all work items necessary to accomplish it, which items may include drilling costs, laboratory costs, characterization, labor costs, mileage, and other items. The money set aside for each work item will be accessible to accomplish the work objective. If a deviation exists between a work item set forth in the workplan and the work submitted for reimbursement under a workplan, a substitution form may be used, if necessary, to demonstrate that the total preapproved monies will not be exceeded due to the deviation. Substitution forms will be available to stakeholders to submit with the claim under a preapproval, and shall be process by ADEQ together with a claim for payment under the preapproval.

We understand that in light of this letter, the stakeholders will not insist on legislation to address any change in A.R.S. § 49-1005(D)(3) or A.R.S. § 49-1052(O), or to add language to A.R.S. § 49-1054(C) on the issue discussed in the second point of this letter.

Sincerely,



Shannon M. Davis, Director
Waste Programs Division



Robert Rocha, Director
Administrative Services Division

cc: Ian Bingham, UST Corrective Action Section Manager
Patricia Nowack, SAF Manager